

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



Thu 15.5a

Filed: May 26, 2005
49th Day: waived
Staff: Ellen Lirley-SD
Staff Report: July 20, 2006
Hearing Date: August 8-11, 2006

STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of San Diego

DECISION: Approval with Conditions

APPEAL NO.: A-6-NOC-05-050

APPLICANT: Pardee Homes

PROJECT DESCRIPTION: Planned Residential Development on 185.2 acres to accommodate 128 single-family homes and 144 multi-family units (272 units total) in 15 buildings, associated street, drainage and landscaping improvements, and dedication of open space, including retirement of development rights on six parcels.

PROJECT LOCATION: North and south of Calle Cristobal, east and west of Camino Santa Fe, in the Mira Mesa Community Plan area, North City, San Diego, San Diego County. APNs 308-040-15; 311-020-43; 311-020-44; 31-020-45; 311-021-08; 311-021-10; 311-031-23; 311-031-24; 311-031-25

APPELLANTS: California Coastal Commissioners Sara Wan and Patrick Kruer

STANDARD OF REVIEW: Certified City of San Diego Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed. The City action which is the subject of this appeal relied on amendments to the certified LCP that had not yet been approved by the Commission and allows development that is inconsistent with the certified LCP. Although an LCP amendment has subsequently been approved by the Commission (City of San Diego LCP Amendment #3-03B (Crescent Heights) to address development of the Crescent Heights properties, the development approved by the City and which is the subject of this appeal remains inconsistent with the certified LCP, as amended.

SUBSTANTIVE FILE DOCUMENTS: Appeal Forms received May 26, 2005 in the San Diego Commission office; Certified City of San Diego LCP; City of San Diego LCP Amendment No. 3-03B (Crescent Heights) effectively certified on February 9, 2006.

I. Appellants Contend That: The appellants contend that the City approved the proposed development in reliance on amendments to the North City LCP Land Use Plan/Mira Mesa Community Plan (LUP), and rezoning of the site, that had not been certified by the Coastal Commission at that time. Specifically, the proposed development exceeds the density permitted under A-1-10 zoning, i.e. one dwelling unit per 10 acres, and is not consistent with the Open Space land use designations in the LUP, as certified at the time of the City's approval. In addition, the proposed development is inconsistent with a policy of the certified North City LCP Land Use Plan/Mira Mesa Community Plan (as it was certified at the time of the appeal), that states: "Grading over the rim of Los Penasquitos Canyon shall not be permitted." The project approved by the City is also inconsistent with the biological resource regulations of the Resource Protection Ordinance and the Hillside Development Regulations (since replaced by portions of the Land Development Code [LDC]) as the development would encroach onto biologically sensitive lands supporting sensitive species and onto steep hillsides and fails to provide a minimum 100' setback from wetlands (vernal pools).

II. Local Government Action. The City approved a Coastal Development Permit (CDP), with conditions, on July 11, 2003, but only transmitted the Notice of Final Action to the Commission's San Diego office on May 13, 2005. The permit is associated with a then-pending LCP amendment request, and the applicant waived all time limits so the LCP amendment could first be reviewed by the Commission. The City approved the CDP along with a number of other local discretionary permits. All City discretionary permits for a proposed development are typically processed concurrently as a single document; in this case the document included a Vesting Tentative Map, a Planned Residential Development Permit, a Community Plan amendment, an LCP amendment, and a Multiple Habitat Preserve Area (MHPA) Boundary Line Adjustment, as well as the CDP.

Subsequent to the Commission action to certify the LCP Amendment #3-03B (Crescent Heights) with suggested modifications, the City approved revisions to the CDP and associated approvals through Substantial Conformance Review (SCR). There are questions related to this process including whether it is possible to modify a coastal development permit which is pending on appeal before the Commission without processing an amendment to the permit. In any event, if substantial issue is found on the project as originally approved by the City (which is the subject of this appeal), it is anticipated the applicant would revise the project description to include the revisions accepted by the City through SCR. The revised project would then be subject to de novo review by the Commission.

III. Appeal Procedures:

After certification of a municipality's Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permit applications. One example is that the approval of projects within cities and counties may be appealed if the projects are located within mapped appealable areas. The grounds for such an appeal are limited to the assertion that "development does not conform to the standards set forth in the certified local coastal program or the [Coastal Act] public access policies." Cal. Pub. Res. Code § 30603(b)(1).

After the local government has taken final action on an appealable project, it must send a notice of that final action (NOFA) to the Commission. Cal. Pub. Res. Code § 30603(d); 14 C.C.R. § 13571. Upon proper receipt of a valid NOFA, the Commission establishes an appeal period, which runs for 10 working days. Cal. Pub. Res. Code § 30603(c); 14 C.C.R. § 13110 and 13111(b). If an appeal is filed during the appeal period, the Commission must "notify the local government and the applicant that the effective date of the local government action has been suspended," 14 C.C.R. § 13572, and it must set the appeal for a hearing no later than 49 days after the date on which the appeal was filed. Cal. Pub. Res. Code § 30621(a).

Section 30625(b)(2) of the Coastal Act requires the Commission to hear an appeal of the sort involved here unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to a de novo hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project either immediately or at a subsequent meeting. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Sec. 30604(c) of the Coastal Act requires that, for a permit to be granted, a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government.

Testimony from other persons must be submitted in writing. At the time of the de novo hearing, any person may testify.

IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-NOC-05-050 raises NO substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. **A-6-NOC-05-050** presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Findings and Declarations.

1. Project Description/Permit History. The City of San Diego, in July, 2003, approved a coastal development permit for a Planned Residential Development (PRD) referred to as Crescent Heights. The residential development was approved by the City to be clustered on parts of three mesa top parcels which total approximately 101 acres of the 185.2 acre total site. The project also includes retiring six other parcels from development and conserving the land as open space. The 272-unit residential development approved by the City was not consistent with then-current zoning, the land use/open space designations in the certified LUP at the time, the zones suggested in the LUP to be appropriate for the site, and the specific LUP policy that prohibits grading beyond the canyon rim of the Los Penasquitos Canyon Preserve. To address these known inconsistencies, an LCP amendment was approved by the City concurrent with the CDP and other local discretionary actions.

Although approved by the City in 2003, the Crescent Heights application was actually deemed complete by the City in 1999, and was, thus, processed by the City under the

rules and regulations in effect at that time which are referred to as the “old municipal code.” Since that time, the Coastal Commission has certified an entirely new Implementation Plan for the City of San Diego LCP, that took effect in the Coastal Zone on January 1, 2000. Regardless, the project as approved by the City required revisions to both the LCP Land Use Plan and the Implementation Plan in order for the project to be approved.

2. Inconsistency with the Certified LCP. The appellants contend that the project approved by the City of San Diego is inconsistent with the biological resource and visual resource policies of the North City LCP Land Use Plan/ Mira Mesa Community Plan. The City-approved project proposes grading beyond the rim of the Los Penasquitos Canyon Preserve, which includes both Penasquitos and Lopez Canyons, onto steep slopes containing environmentally sensitive habitat area (ESHA). Also, one of the parcels contains multiple vernal pools, and the approved development does not maintain an adequate buffer from these resources. In addition to the biological impacts of the proposed grading, some of the proposed structures would also be visible from adjacent public recreational areas, including the planned hiking trail in Lopez Canyon. Finally, the appellants contend the project is inconsistent with Open Space land use designations and the A-1-10 zoning that applied to the site when the City approved the project.

Specifically, the appeal raises substantial issues regarding the proposed development’s conformity with the following LCP policies and regulations as they existed at the time of the City’s approval of the permit:

From the Sensitive Resources and Open Space System component of the North City LCP Land Use Plan/ Mira Mesa Community Plan (LUP):

Policy 1.a. (Page 31)

Sensitive resource areas of community-wide and regional significance shall be preserved as open space.

Policy 4.c. (Page 31)

No encroachment shall be permitted into wetlands, including vernal pools. Encroachment into native grasslands, Coastal Sage Scrub, and Maritime Chaparral shall be consistent with the Resource Protection Ordinance. Purchase, creation, or enhancement of replacement habitat area shall be required at ratios determined by the Resource Protection Ordinance or State and Federal agencies, as appropriate. In areas of native vegetation that are connected to an open space system, the City shall require that as much native vegetation as possible is preserved as open space.

Policy 4.i. (Page 33)

Vernal Pools: The remaining vernal pool habitat in the community shall be preserved and shall be protected from vehicular or other human-caused damage, encroachment in their watershed areas, and urban runoff.

Proposal 1. (Page 34)

Preserve the flood plain and adjacent slopes of the five major canyon systems that traverse the community – Los Penasquitos Canyon, Lopez Canyon ... and the remaining vernal pool sites ... in a natural state as open space.

In addition, the Residential Land Use portion of the certified LUP includes the following goals, policies and proposals:

Third Goal (Page 75)

Residential subdivisions that are designed to preserve Mira Mesa's unique system of canyons, ridge tops and mesas.

Policy 1. (Page 76), Determination of Permitted Density

a. In determining the permitted density and lot size for specific projects, within the density ranges provided under the Proposals below, the City shall take into account the following factors:

1. Compatibility with the policies established in this plan;
2. Compatibility with the density and pattern of adjacent land uses;
3. Consideration of the topography of the project site and assurance that the site design minimizes impacts on areas with slopes in excess of 25 percent and sensitive biology.

b. The City shall permit very low density development in canyon and slope areas that are not to be preserved for open space and shall permit flexibility in street improvements in residential subdivisions in topographically constrained sites.

Proposal 1. (Page 77)

The following density ranges and building types are proposed to meet the goals of this plan: ...

Very low density: 0-4 dwelling units per gross acres. This density range is proposed for Lopez Ridge and the northeastern corner of the community near Canyon Hills Park. This range is generally characterized by clustered detached

single-family or attached multifamily units (such as duplexes and townhomes) built on large hillside parcels that contain relatively small areas suitable for buildings. Design flexibility on these hillside parcels is necessary to integrate development with the natural environment, preserve and enhance views, and protect areas of unique topography and vegetation. Especially when clustering is used on ridgetop and hillside parcels, appropriate zoning should be applied to the developable area which matches the development intensity, with open space zoning applied to the associated open space areas. The R1-10,000 Zone or the R1-5000 Zone if units are clustered to preserve natural open space areas, are proposed to implement this designation. The maximum four units per acre is not likely to be achieved except on lots that have large areas in slopes of less than 25 percent.

Within the Development Criteria of the certified LUP, the following policies apply:

Policy #1 (Page 107)

Grading over the rim of Los Penasquitos Canyon shall not be permitted.

Policy #5 (Pages 107-108)

... Development shall not be visible from the northern trail in Los Penasquitos Canyon or the location of the planned trail in Lopez Canyon at the point that is located nearest to the proposed development. ...

The project, as approved by the City, is inconsistent with the biological resource regulations of the Resource Protection Ordinance (RPO) and the steep slope provisions of the Hillside Review (HR) Ordinance, which were the City's standard of review in approving this development. Within the coastal zone, the HR regulations addressed preservation of steep slopes for biological, geological and visual purposes, with specific rules applying to steep slopes with sensitive biological resources. The RPO was written by the City primarily to address resources outside the coastal zone, but an LCP amendment certified in the 1990's required a finding on all coastal development permits that the development was consistent with the biological resource and archaeological/paleontological provisions of the RPO. The requirement for a 100-foot buffer for wetland resources was part of the RPO, as was some protection for sensitive biological resources not on steep slopes.

These regulations generally required protection and preservation of steep slopes, biological resources and wetlands, but minimal encroachments onto steep slopes could be discretionarily permitted where warranted. However, although most of the proposed development is located on the flatter mesa tops, the project approved by the City allows encroachment onto 11.85 acres of sensitively vegetated slopes at or exceeding 25% gradient, which is not considered "minimal." With respect to encroachment onto biologically sensitive lands, nearly everything below the canyon rim consists of Coastal Sage Scrubcommunities supporting sensitive species. In addition, the RPO requires a

minimum 100' setback from wetlands. Under the definitions in the certified LCP, vernal pools are a type of wetland. The buffers proposed in the project, which range from 40 feet to 70 feet, are inadequate according to standards normally applied by the Commission and found in the certified LCP. These elements of the approved development are inconsistent with vernal pool provisions cited above as well as with the more general resource protection policies also cited.

Moreover, the City approved development in areas designated on the certified LUP maps as open space, including areas containing coastal sage and other sensitive biological communities, and listed species. This is in direct conflict with the cited policies requiring preservation of sensitive resource areas of community-wide and regional significance and requiring preservation of as much native vegetation as possible where such areas are connected to an open space system (i.e., Los Penasquitos Canyon Preserve, in this case).

In addition to the biological impacts of the proposed grading, the proposed structures would also be visible from adjacent public recreational areas, including the planned hiking trail in Lopez Canyon. This is specifically prohibited in Policy #5 of the Development Criteria cited above. The appeal therefore raises substantial issues regarding the development's conformity with the cited LCP policies.

The project was zoned A-1-10, an agricultural and rural holding zone, when the City approved the development. The A-1-10 Zone allows only one dwelling unit for every ten acres. Thus, the entire 185.2-acre site would only accommodate 18-19 units. Thus the appeal raises a substantial issue regarding the conformity of the City's approval of a total of 272 residential units with the LCP.

Since this appeal was filed, the Commission has certified amendments to the North City LCP Land Use Plan/Mira Mesa Community Plan and zoning that affect the appealed development. Also, the applicant has made significant revisions to the project based on that certification. The City has approved those changes through substantial conformance review, and that action has been appealed by a neighbor. If the Commission finds substantial issue on this appeal, the project will then be heard de novo utilizing the current standard of review, and the applicant will then need to revise the project before the Commission to include, at a minimum, the revisions approved by City staff. To date, Commission staff review of the revised project has found inconsistency with the LCP as amended in the areas of brush management setbacks and landscaping.

In summary, the issues raised in the appeal include inconsistency with the certified LUP and zoning. Therefore, the Commission finds a substantial issue is raised on the grounds by which the appeal was filed.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Sara Wan - Coastal Commissioner
Mailing Address: 22350 Carbon Mesa Rd.
Malibu, CA 92065
Phone Number: (310) 456-6605

SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: Subdivision of 185.2 acres and construction of 128 single-family homes and 144 multi-family units.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
North and south of Calle Cristobal, east and west of Camino Santa Fe, North City (Mira Mesa Community), San Diego
4. Description of decision being appealed:
 - a. Approval; no special conditions:
 - b. Approval with special conditions:
 - c. Denial:

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-NOC-05-50

DATE FILED: 5/26/05

DISTRICT: San Diego

RECEIVED

MAY 26 2005

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXHIBIT NO. <u>1</u>
APPLICATION NO. A-6-NOC-05-050
Appeal Forms
<u>14 pages</u>
California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 2

5. Decision being appealed was made by (check one):
- a. Planning Director/Zoning Administrator c. Planning Commission
- b. City Council/Board of Supervisors d. Other

Date of local government's decision: July 1, 2003

Local government's file number (if any): CDP 9694

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Pardee Homes
Attn: Carlene Matchniff
6600 Koll Center Parkway
Pleasanton, CA 94566

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

See Attachment B

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A" dated May 26, 2005

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: *Laura J. Moran*
Appellant or Agent

Date: 5/26/05

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

Crescent Heights Appeal
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Attachment "A" dated May 26, 2005

This project approved by the City of San Diego is for subdivision of 185.2 acres on nine separate legal parcels, and the subsequent residential development of 272 units on three of those parcels. The other six parcels would be retired from development and protected as open space in perpetuity. However, the project as approved by the City is inconsistent with the A-1-10 Zoning applied to the property and with the biological resource and visual resource policies of the Mira Mesa Community Plan LCP Land Use Plan. The project is inconsistent with the LCP certified at the time the City Council took action, and it is also inconsistent with the LCP as certified by the Coastal Commission on March 17, 2005 with suggested modifications that have not yet been accepted by the City.

The City-approved project proposes grading and brush management beyond the rim of the Los Penasquitos Canyon Preserve, which includes both Penasquitos and Lopez Canyons, onto steep slopes containing ESHA. Also, one of the parcels contains multiple vernal pools, and the proposed project does not maintain an adequate buffer from these resources. In addition to the biological impacts and encroachment on steep slopes from the proposed grading, the proposed structures would also be visible from adjacent public recreational areas, including the hiking trails in both canyons.

Therefore, the proposed development appears to be inconsistent with, at a minimum, the following LCP policies and ordinances:

The open space portion of the certified Mira Mesa LUP includes the following policies:

Policy 1.a. states:

Sensitive resource areas of community-wide and regional significance shall be preserved as open space.

Policy 4.c. states:

No encroachment shall be permitted into wetlands, including vernal pools. Encroachment into native grasslands, Coastal Sage Scrub, and Maritime Chaparral shall be consistent with the Resource Protection Ordinance. Purchase, creation, or enhancement of replacement habitat area shall be required at ratios determined by the Resource Protection Ordinance or State and Federal agencies, as appropriate. In areas of native vegetation that are connected to an open space system, the City shall require that as much native vegetation as possible is preserved as open space. *(The Resource Protection Ordinance [RPO] was part of the City's old municipal code; these resources are now protected under the Environmentally Sensitive Lands [ESL] regulations.)*

Attachment "A" – Crescent Heights Appeal

May 26, 2005

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Policy 4.e. states, in part:

Sensitive habitat area that is degraded or disturbed by development activity or other human impacts (such as non-permitted grading, clearing or grubbing activity or four-wheel drive activity) shall be restored or enhanced with the appropriate native plant community. This is critically important when the disturbed area is adjacent to other biologically sensitive habitats. Manufactured slopes and graded areas adjacent to sensitive habitat shall be re-vegetated with the appropriate native plant community, as much as is feasible considering the City's brush management regulations.

Policy 4.i. states:

Vernal Pools: The remaining vernal pool habitat in the community shall be preserved and shall be protected from vehicular or other human-caused damage, encroachment in their watershed areas, and urban runoff.

Proposal 1. states in part:

Preserve the flood plain and adjacent slopes of the five major canyon systems that traverse the community – Los Penasquitos Canyon ... and the remaining vernal pool sites ... in a natural state as open space.

In addition, the Residential Land Use portion of the certified LUP (Mira Mesa Community Plan) includes the following goal and subsequent policies and proposals:

Goal (cover page of element) states:

Residential subdivisions that are designed to preserve Mira Mesa's unique system of canyons, ridge tops and mesas.

Policy 1. Determination of Permitted Density states:

- a. In determining the permitted density and lot size for specific projects, within the density ranges provided under the Proposals below, the City shall take into account the following factors:
1. Compatibility with the policies established in this plan;
 2. Compatibility with the density and pattern of adjacent land uses;
 3. Consideration of the topography of the project site and assurance that the site design minimizes impacts on areas with slopes in excess of 25 percent and sensitive biology.

Attachment "A" – Crescent Heights Appeal

May 26, 2005

3

Policy b. states:

The City shall permit very low density development in canyon and slope areas that are not to be preserved for open space and shall permit flexibility in street improvements in residential subdivisions in topographically constrained sites.

Proposal 1. states in part:

The following density ranges and building types are proposed to meet the goals of this plan: ...

... Very low density: 0-4 dwelling units per gross acre. This density range is proposed for Lopez Ridge and the northeastern corner of the community near Canyon Hills Park. This range is generally characterized by clustered detached single-family or attached multifamily units (such as duplexes and town homes) built on large hillside parcels that contain relatively small areas suitable for buildings. Design flexibility on these hillside parcels is necessary to integrate development with the natural environment, preserve and enhance views, and protect areas of unique topography and vegetation. The R1-10,000 Zone or the R1-5,000 Zone if units are to be clustered to preserve natural open space areas, are proposed to implement this designation. The maximum four units per acre is not likely to be achieved except on lots that have large areas in slopes of less than 25 percent.

Policy #1 on Page 116 of the certified Mira Mesa Community Plan states: "Grading over the rim of Los Penasquitos Canyon shall not be permitted." The project approved by the City includes grading over the rim of Los Penasquitos Canyon, and thus appears to be inconsistent with this policy. The grading is also inconsistent with the Hillside Review regulations that have historically protected the steep slopes on this property, as well as being inconsistent with the steep hillside regulations that are in the currently certified Land Development Code.

In addition, the Resource Protection Ordinance and ESL regulations require a minimum 100 ft. setback from wetlands. Under the definitions in the certified LCP, vernal pools are a type of wetland. The approved buffer does not meet the 100 ft. standard typically applied by the Commission and found in the certified LCP.

Finally, the project permits development within areas designated as Open Space in the LUP and Multi-Habitat Plan Area (MHPA). Those boundaries were adjusted by the City to accommodate the proposed residential development. The Commission did not support the City-approved development footprint in its action on LCPA #3-03B (Crescent Heights); thus the approved development is inconsistent with the LCP certified at the time of the City action, and remains inconsistent with the LCP as approved by the Commission with suggested modifications.

**Attachment B
Crescent Heights Appeal
Interested Parties
May 26, 2005**

Mel Hinton
1545 Buckingham Drive
La Jolla, CA 92037

Steve Silverman
5620 Friars Road
San Diego, CA 92110

David Fells
11251 Caminito Aclara
San Diego, CA 92126

Nancy Delaet, Ph.D.
Brandon K. Liesemeyer, E.I.T.
7285 Rock Canyon Drive
San Diego, CA 92126

Meir Nawy
11155 Caminito Inocenta
San Diego, CA 92126

Frank Nieman, Jr.
7215 Rock Canyon Drive
San Diego, CA 92126

Bettina Pedersen
7455 Keisha Terrace
San Diego, CA 92126

Kim Rarig
7215 Rock Canyon Drive
San Diego, CA 92126

Karen Hower
7210 Calle Cristobal #1
San Diego, CA 92126

Kathryn Wild
7275 Canyon Breeze
San Diego, CA 92126

Evelyn Schneider
7235 Canyon Breeze
San Diego, CA 92126

Ms Mary T. Psinka
11134 Caminito Inocenta
San Diego, CA 92126

Mr. Timothy A. Schenck
7319 Calle Cristobal #142
San Diego, CA 92126

Dr. Bernd Stein
11024 Cedarcrest Way
San Diego, CA 92121

Joseph J. Roccoforte
6613 Maycrest Lane
San Diego, CA 92121

Kurt T. Diesel
6615 Maycrest Lane
San Diego, CA 92121

YingYong Qi
6609 Maycrest Lane
San Diego, CA 92121

Jim Brown
Geocon
6960 Flanders Drive
San Diego, CA 92121

Lucille Pedersen-Nawy
11155 Caminito Inocenta
San Diego, CA 92126

Janette and Brian Smith
11950 Thomas Hayes Lane
San Diego, CA 92126

Florence E Mansfield
916 Genter Street
La Jolla, CA 92037-5516

Joanne Pearson
1525 Buckingham Drive
La Jolla, CA 92037

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Patrick Krueer - Coastal Commissioner
Mailing Address: The Monarch Group
7727 Herschel Avenue
La Jolla, CA 92037
Phone Number: (858) 551-4390

SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: Subdivision of 185.2 acres and construction of 128 single-family homes and 144 multi-family units
3. Development's location (street address, assessor's parcel no., cross street, etc.) North and south of Calle Cristobal, east and west of Camino Santa Fe, North City (Mira Mesa Community), San Diego
4. Description of decision being appealed:
 - a. Approval; no special conditions:
 - b. Approval with special conditions:
 - c. Denial:

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-NOC-05-50

DATE FILED: 5/26/05

DISTRICT: San Diego

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator
- b. City Council/Board of Supervisors
- c. Planning Commission
- d. Other

Date of local government's decision: July 1, 2003

Local government's file number (if any): CDP 9694

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Pardee Homes
Attn: Carlene Matchniff
6600 Koll Center Parkway
Pleasanton, CA 94566

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

See Attachment B

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

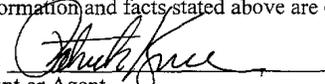
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A" dated May 26, 2005

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: 
Appellant or Agent

Date: 5/26/05

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

Crescent Heights Appeal

1

Attachment "A" dated May 26, 2005

This project approved by the City of San Diego is for subdivision of 185.2 acres on nine separate legal parcels, and the subsequent residential development of 272 units on three of those parcels. The other six parcels would be retired from development and protected as open space in perpetuity. However, the project as approved by the City is inconsistent with the A-1-10 Zoning applied to the property and with the biological resource and visual resource policies of the Mira Mesa Community Plan LCP Land Use Plan. The project is inconsistent with the LCP certified at the time the City Council took action, and it is also inconsistent with the LCP as certified by the Coastal Commission on March 17, 2005 with suggested modifications that have not yet been accepted by the City.

The City-approved project proposes grading and brush management beyond the rim of the Los Penasquitos Canyon Preserve, which includes both Penasquitos and Lopez Canyons, onto steep slopes containing ESHA. Also, one of the parcels contains multiple vernal pools, and the proposed project does not maintain an adequate buffer from these resources. In addition to the biological impacts and encroachment on steep slopes from the proposed grading, the proposed structures would also be visible from adjacent public recreational areas, including the hiking trails in both canyons.

Therefore, the proposed development appears to be inconsistent with, at a minimum, the following LCP policies and ordinances:

The open space portion of the certified Mira Mesa LUP includes the following policies:

Policy 1.a. states:

Sensitive resource areas of community-wide and regional significance shall be preserved as open space.

Policy 4.c. states:

No encroachment shall be permitted into wetlands, including vernal pools. Encroachment into native grasslands, Coastal Sage Scrub, and Maritime Chaparral shall be consistent with the Resource Protection Ordinance. Purchase, creation, or enhancement of replacement habitat area shall be required at ratios determined by the Resource Protection Ordinance or State and Federal agencies, as appropriate. In areas of native vegetation that are connected to an open space system, the City shall require that as much native vegetation as possible is preserved as open space. *(The Resource Protection Ordinance [RPO] was part of the City's old municipal code; these resources are now protected under the Environmentally Sensitive Lands [ESL] regulations.)*

Attachment "A" – Crescent Heights Appeal
May 26, 2005
2

Policy 4.e. states, in part:

Sensitive habitat area that is degraded or disturbed by development activity or other human impacts (such as non-permitted grading, clearing or grubbing activity or four-wheel drive activity) shall be restored or enhanced with the appropriate native plant community. This is critically important when the disturbed area is adjacent to other biologically sensitive habitats. Manufactured slopes and graded areas adjacent to sensitive habitat shall be re-vegetated with the appropriate native plant community, as much as is feasible considering the City's brush management regulations.

Policy 4.i. states:

Vernal Pools: The remaining vernal pool habitat in the community shall be preserved and shall be protected from vehicular or other human-caused damage, encroachment in their watershed areas, and urban runoff.

Proposal 1. states in part:

Preserve the flood plain and adjacent slopes of the five major canyon systems that traverse the community – Los Penasquitos Canyon ... and the remaining vernal pool sites ... in a natural state as open space.

In addition, the Residential Land Use portion of the certified LUP (Mira Mesa Community Plan) includes the following goal and subsequent policies and proposals:

Goal (cover page of element) states:

Residential subdivisions that are designed to preserve Mira Mesa's unique system of canyons, ridge tops and mesas.

Policy 1. Determination of Permitted Density states:

- a. In determining the permitted density and lot size for specific projects, within the density ranges provided under the Proposals below, the City shall take into account the following factors:
1. Compatibility with the policies established in this plan;
 2. Compatibility with the density and pattern of adjacent land uses;
 3. Consideration of the topography of the project site and assurance that the site design minimizes impacts on areas with slopes in excess of 25 percent and sensitive biology.

Attachment "A" – Crescent Heights Appeal

May 26, 2005

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Policy b. states:

The City shall permit very low density development in canyon and slope areas that are not to be preserved for open space and shall permit flexibility in street improvements in residential subdivisions in topographically constrained sites.

Proposal 1. states in part:

The following density ranges and building types are proposed to meet the goals of this plan: ...

... Very low density: 0-4 dwelling units per gross acre. This density range is proposed for Lopez Ridge and the northeastern corner of the community near Canyon Hills Park. This range is generally characterized by clustered detached single-family or attached multifamily units (such as duplexes and town homes) built on large hillside parcels that contain relatively small areas suitable for buildings. Design flexibility on these hillside parcels is necessary to integrate development with the natural environment, preserve and enhance views, and protect areas of unique topography and vegetation. The R1-10,000 Zone or the R1-5,000 Zone if units are to be clustered to preserve natural open space areas, are proposed to implement this designation. The maximum four units per acre is not likely to be achieved except on lots that have large areas in slopes of less than 25 percent.

Policy #1 on Page 116 of the certified Mira Mesa Community Plan states: "Grading over the rim of Los Penasquitos Canyon shall not be permitted." The project approved by the City includes grading over the rim of Los Penasquitos Canyon, and thus appears to be inconsistent with this policy. The grading is also inconsistent with the Hillside Review regulations that have historically protected the steep slopes on this property, as well as being inconsistent with the steep hillside regulations that are in the currently certified Land Development Code.

In addition, the Resource Protection Ordinance and ESL regulations require a minimum 100 ft. setback from wetlands. Under the definitions in the certified LCP, vernal pools are a type of wetland. The approved buffer does not meet the 100 ft. standard typically applied by the Commission and found in the certified LCP.

Finally, the project permits development within areas designated as Open Space in the LUP and Multi-Habitat Plan Area (MHPA). Those boundaries were adjusted by the City to accommodate the proposed residential development. The Commission did not support the City-approved development footprint in its action on LCPA #3-03B (Crescent Heights); thus the approved development is inconsistent with the LCP certified at the time of the City action, and remains inconsistent with the LCP as approved by the Commission with suggested modifications.

**Attachment B
Crescent Heights Appeal
Interested Parties
May 26, 2005**

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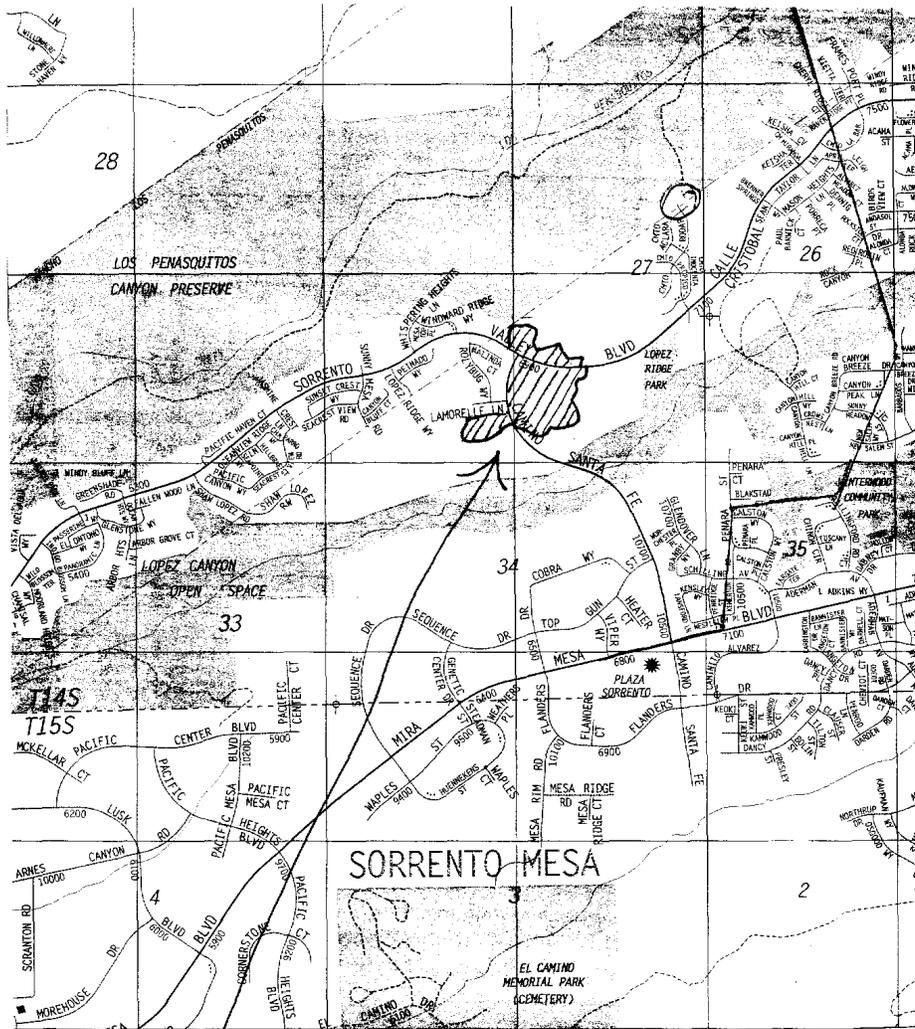
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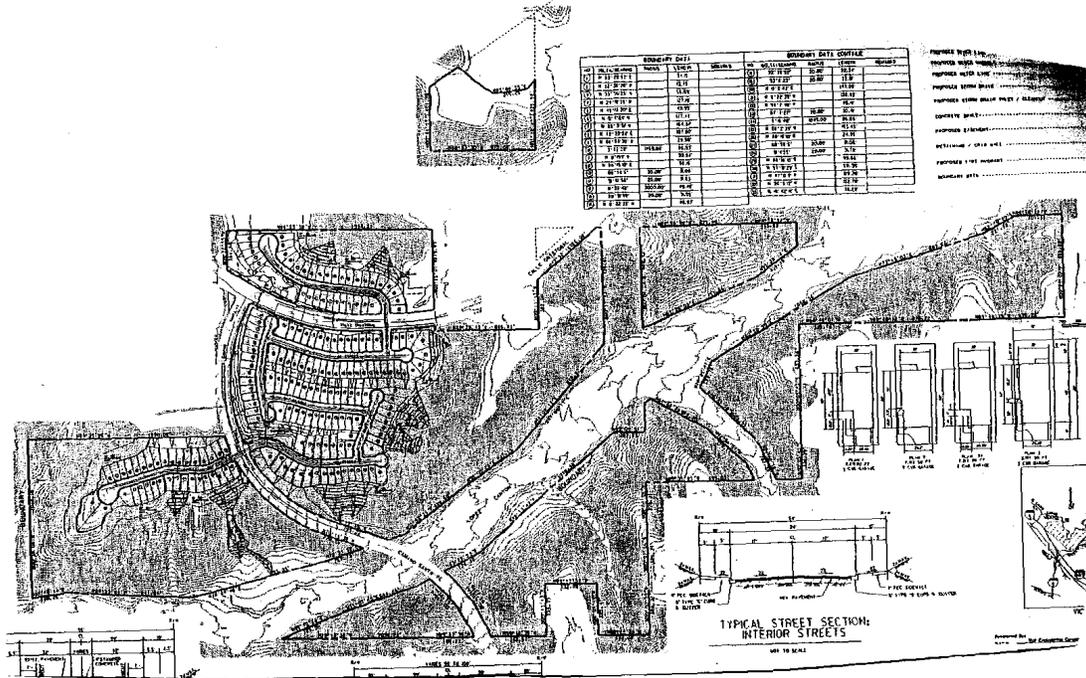
A-6-NOC-05-050



site

EXHIBIT NO. 2
APPLICATION NO.
A-6-NOC-05-050
Location Map
California Coastal Commission

A-6-NOC-05-050

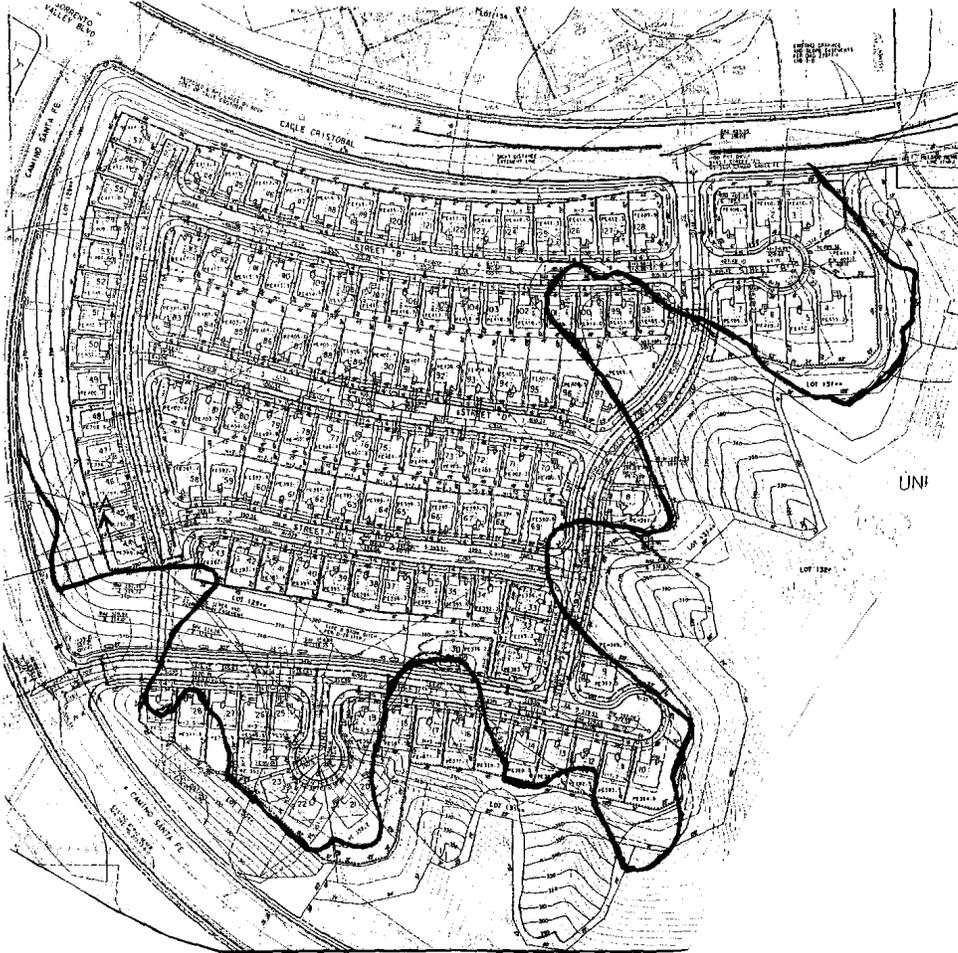


NO.	DESCRIPTION	ELEVATION DATA		BOUNDARY DATA		CONTIGUOUS DATA	
		MIN.	MAX.	MIN.	MAX.	MIN.	MAX.
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EXHIBIT NO. 3
APPLICATION NO.
A-6-NOC-05-050
Site Plan
California Coastal Commission

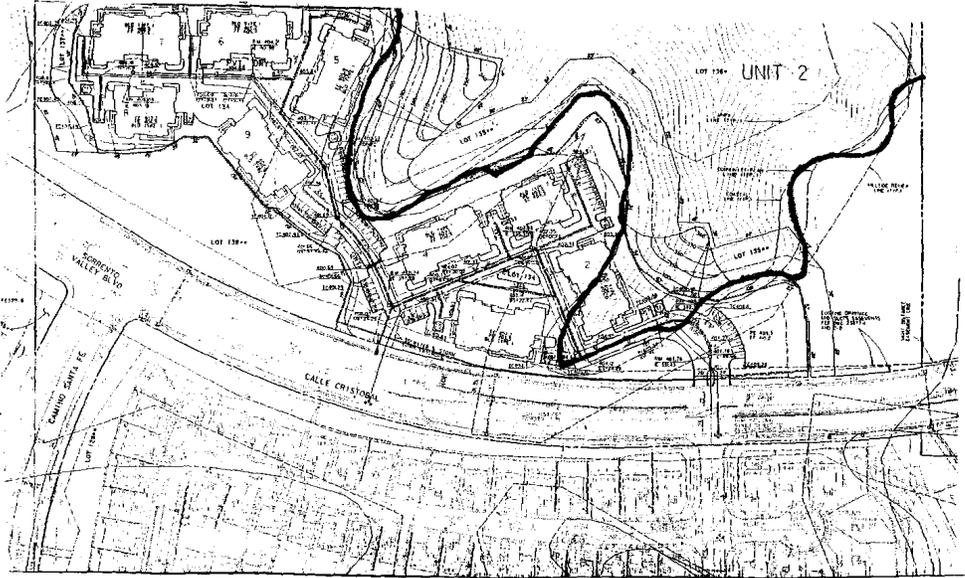
A-6-NOC-05-050



Dark line represents
approximate rimline

EXHIBIT NO. 4a
APPLICATION NO.
A-6-NOC-05-050
Single-Family Area
 California Coastal Commission

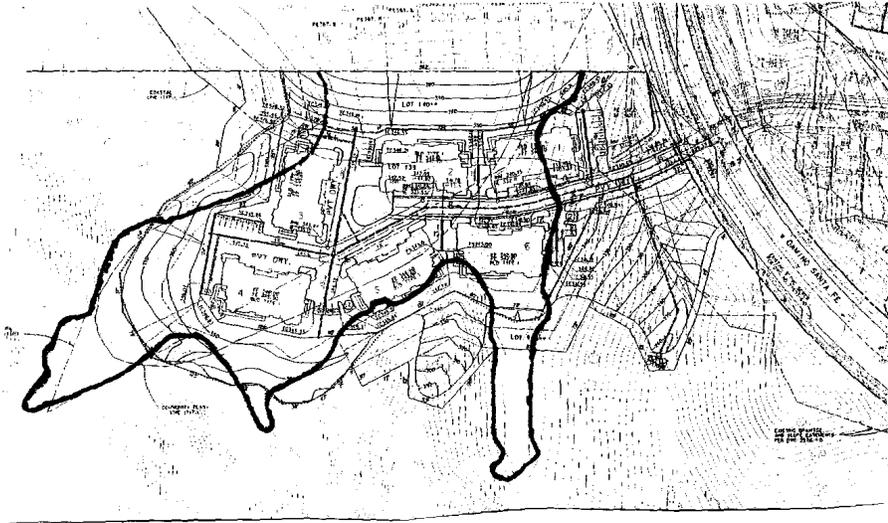
A-6-NOC-05-050



Dark line represents
approximate rim line

EXHIBIT NO. 4b
APPLICATION NO.
A-6-NOC-05-050
Multi-Family North
 California Coastal Commission

A-6-NOC-05-050



Dark line represents
approximate rimline

EXHIBIT NO. 4C
APPLICATION NO.
A-6-NOC-05-050
Multi-Family West
 California Coastal Commission

A-6-NOC-05-050

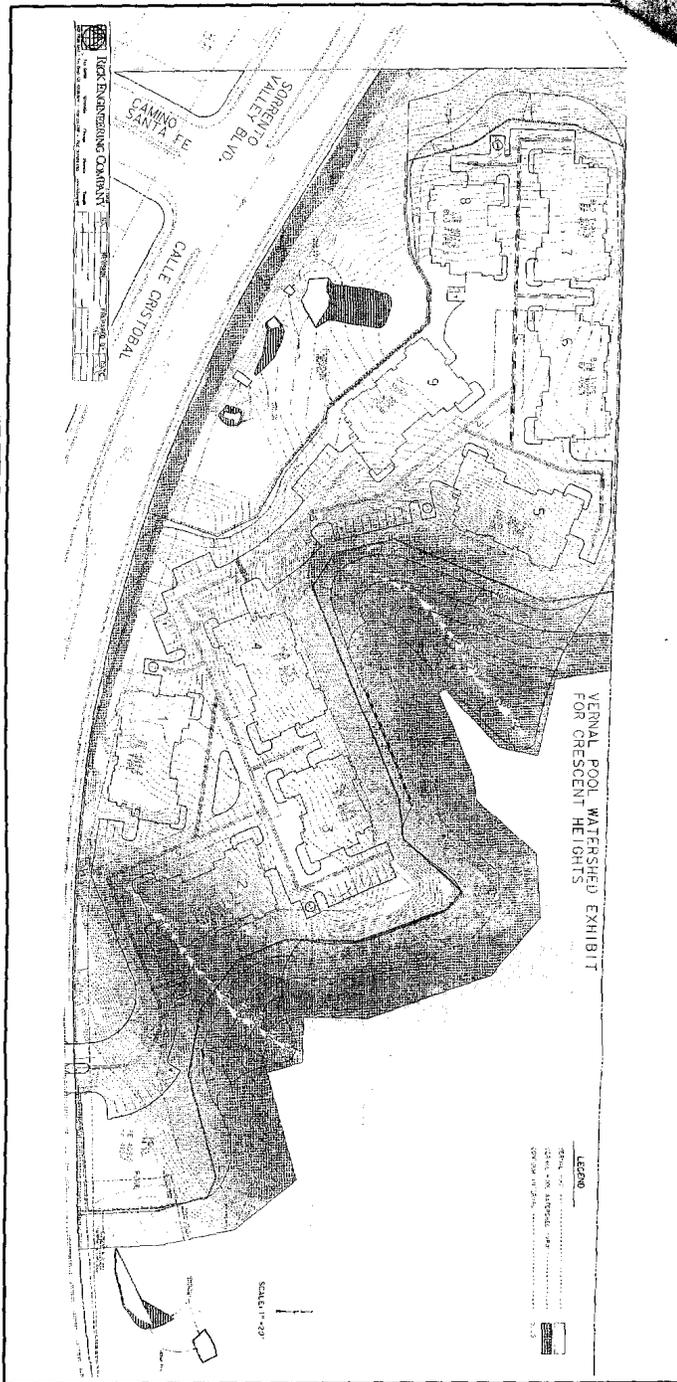


EXHIBIT NO. 5
APPLICATION NO.
A-6-NOC-05-050
Vernal Pool Map

California Coastal Commission